

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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KEVIN KENNEDY,

Petitioner,

v.

WARDEN BACA et. al.,

Respondents.

Case No. 3:14-cv-00493-MMD-WGC

ORDER

The Court directed petitioner to show cause why the Court should not dismiss this action because petitioner had not exhausted his available state-court remedies. Order (ECF No. 17). Petitioner has filed a response. (ECF No. 18.) Petitioner's argument that his sentence is about to expire does not affect the requirement of 28 U.S.C. § 2254(b) that he turn to the state courts first. Once petitioner learned of the failure to exhaust, which was no later than this Court's order to show cause, he could have filed a habeas corpus petition in the state courts.¹ The Court will dismiss the action.

Reasonable jurists would not find the Court's conclusion to be debatable or wrong, and the Court will not issue a certificate of appealability.

It is therefore ordered that petitioner's motion to expedite and grant relief (ECF No. 20) is denied as moot because the Court is dismissing this action.

¹Petitioner commenced this action with a petition on an incorrect form. If he had used the correct form and instructions, he would have learned long before the order to show cause that he needed to pursue state-court remedies first.

1 It is further ordered that petitioner's request to receive copies (ECF No. 21) is
2 granted. The Clerk of the Court will send petitioner a copy of the amended petition (ECF
3 No. 9), the order to show cause (ECF No. 17), and his response (ECF No. 18).

4 It is further ordered that petitioner's motion to receive copy of filed petition (ECF
5 No. 22) is denied because it is redundant.

6 It is further ordered that petitioner's motion to transfer filings to the appropriate
7 county (ECF No. 23) is denied because this Court has no authority to transfer an action
8 to a state court.

9 It is further ordered that petitioner's motion to receive copies of filed petition in
10 compliance with this Court's order, transfer records (ECF No. 24) is denied because it is
11 redundant.

12 It is further ordered that this action is dismissed for petitioner's failure to exhaust
13 his available state-court remedies. The Clerk of the Court will enter judgment
14 accordingly and close this action.

15 It is further ordered that a certificate of appealability is denied.

16 DATED THIS 6th day of May 2016.

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19 MIRANDA M. DU
20 UNITED STATES DISTRICT JUDGE
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